

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT MILLER,

Plaintiff,

vs.

4INTERNET, LLC AND
JOHN DOES 1-10,

Defendants.

2:18-cv-02097-JAD-VCF

ORDER

MOTION TO COMPEL COMPLIANCE WITH
POST JUDGMENT SUBPOENA TO HIGBEE
& ASSOCIATES (ECF No. 147)

Defendant 4Internet, LLC filed a motion to compel compliance with post judgment subpoena to Higbee & Associates. ECF No. 147. I deny the motion for lack of jurisdiction.

I. Background

On December 20, 2022, the Court entered judgment in the amount of \$99,604.42 in favor of Defendant 4Internet, LLC. ECF No. 141. Defendant allegedly served, via email, a subpoena on the law firm of Higbee & Associates seeking documents relating to settlements, demands, and funds received related to plaintiff. ECF No. 147. 4Internet contends that Higbee is the agent for service of process for H&A, but that Higbee is not present for service in Las Vegas and H&A fails to maintain a registered office in Nevada. *Id.* Plaintiff argues that service was not proper—but that even if it were proper—the Court lacks jurisdiction to enforce it. ECF No. 148.

II. Analysis

Rule 45 requires any motions or applications related to a subpoena be brought in the district where compliance is required.¹ see also Adv. Comm. Notes to 2013 Amendment, Rule 45 ("Under Rules 45(d)(2)(B), 45(d)(3), and 45(e)(2)(B), subpoena-related motions and applications are to be made to the court where compliance is required under Rule 45(c)."). "Rule 45 makes clear that the place of compliance is tethered to the location of the subpoenaed person." *Agincourt Gaming, LLC v. Zynga, Inc.*, No. 2:14-cv-0708-RFB-NJK, 2014 U.S. Dist. LEXIS 114348, at 9 (D. Nev. Aug. 15, 2014), citing to Fed. R. Civ. P., Rule 45(c)(2)(A) (the place of compliance must be "within 100 miles of where the person resides, is employed, or regularly transacts business in person"). "The place of compliance is a jurisdictional issue." *4R4 Sons, LLC v. TRU G. Wilhelm, Inc.*, No. 2:21-cv-01081-GMN-NJK, 2022 U.S. Dist. LEXIS 130260, at 12 (D. Nev. July 22, 2022), citing to *Agincourt Gaming, LLC v. Zynga, Inc.*, 2014 U.S. Dist. LEXIS 114348, 2014 WL 4079555, at 3 (D. Nev. Aug. 15, 2014).

Attorney Higbee, an officer of the court, declares under penalty of perjury that H&A's corporate headquarters is located at 1504 Brookhollow Drive, Suite #112, Santa Ana, California. ECF No. 148. He also swears that California is the location that all of H&A's corporate records are maintained. *Id.* The subpoena directs H&A to produce certain documents related to Miller and states the place of compliance as 9900 Covington Cross Dr., Suite 210-B, Las Vegas, NV 89144. ECF No. 147-1.

Defendant filed its Rule 45 motion in the wrong court: this Court lacks jurisdiction over H&A's corporate headquarters at 1504 Brookhollow Drive, Suite #112, Santa Ana, California. Defendant's motion contends that Higbee is the agent for service of process for H&A, but admits that Higbee is not

¹ Rule 45(d)(1) (As to avoiding undue burden or expense on the party subject to the subpoena, "[t]he court for the district where compliance is required must enforce this duty"); (d)(2)(B)(i) (As to an order compelling production "the serving party may move the court for the district where compliance is required").

1 present for service in Las Vegas and H&A fails to maintain a registered office in Nevada. ECF No. 147.
2 While Higbee's alleged failure here may have other legal consequences, defendant has not shown that
3 this Court is the proper venue to decide issues related to this subpoena. I find that this Court does not
4 have jurisdiction to decide the merits of any issues related to the subpoena. See, e.g., *Taddeo v. Am.*
5 *Invsco Corp.*, 2016 U.S. Dist. LEXIS 17697, at 3 (D. Nev. Feb. 11, 2016) (citations omitted).
6 Compliance is required in California, not Nevada. I deny the motion for lack of jurisdiction.

7 ACCORDINGLY,

8 I ORDER that the defendant 4Internet, LLC's motion to compel compliance with post judgment
9 subpoena to Higbee & Associates (ECF No. 147) is DENIED.

10 IT IS SO ORDERED.

11 DATED this 31st day of May 2023.



13 CAM FERENBACH
14 UNITED STATES MAGISTRATE JUDGE
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